

TAX TIPS FOR NON-RESIDENT CONTRACTORS CONDUCTING BUSINESS IN DELAWARE

Things You Should Know

Definitions *30 Del. C., Ch. 25*

A contractor is one who furnishes labor or both labor and materials in connection with all or any part of construction, alteration, repairing, dismantling or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, and every other type of structure as an improvement, alteration or development of real property. The following is a partial list of examples of activities which are considered contracting. If you have accessed this site from the Delaware Business Information Cooperative site, the activity that you selected is considered contracting for purposes of Delaware's gross receipts taxes.

Who are considered contractors?

- Asbestos Removers
- Bridge Builders
- Carpenters
- Carpet Layers
- Electricians
- Excavators
- Home Builders
- Insulators
- Painters
- Plumbers
- Road Builders
- Well Diggers

Gross Receipts

Gross receipts include all sums received for any work done or materials supplied (including land) in connection with any real property located in the State. Consideration for services rendered includes cash, checks, credit cards, gift certificates, travelers checks, money orders, barter, trade-ins, manufacturer's coupons and rebates, and any other consideration of any kind.

Gross Receipts Do Not Include Amounts Paid to Subcontractors

- Section 2501(5) of Title 30 of the Delaware Code provides that a contractor or subcontractor may exclude from their gross receipts those amounts paid to other subcontractors who have provided construction labor or provided materials AND construction labor associated with such materials. Enter the total amounts paid to your subcontractors for the reporting period in the block provided on the gross receipt coupon AND attach Form 1280, 'Amounts Paid to Subcontractors', listing the name, address, taxpayer identification number and the amount paid to each subcontractor. Form 1280 is also available by contacting any Division of Revenue office. Only amounts paid to persons subject to taxation as a contractor, regardless of the contractual relationship under which you are required to make payment, may be deducted. The person must be engaged in the business as a contractor as defined in Section 2501(1) in order to be deducted as a subcontractor.

Gross Receipts May Not Be Reduced by:

- Accounting Expenses
- Advertising
- Architects
- Attorneys
- Cleaning
- Delivery or transportation charges
- Employment agencies or temporary employees
- Engineers
- Environmental Studies
- Equipment Rental
- Exterminators
- Hauling
- Horticulture
- Inspections
- Interior Designers/Decorators
- Material supplied without labor
- Operating Expenses
- Realtors Fees/Commissions
- Sanitation
- Security
- Surveyors
- Taxes or other fees paid to any state, county, city or municipality
- Trailer Rentals
- Trash Removal
- Utility Expenses

License and Gross Receipts Requirements

A contractor is required to obtain a business license (\$75) which must be renewed annually on or before December 31st of each year. Additionally, every contractor must pay a gross receipts tax at the rate of .499% (.00499) times the taxable gross receipts received from construction services. The first \$80,000 of construction gross receipts received per month (\$240,000 quarterly) are exempt from the gross receipts tax. Specific instructions will be sent to new registrants with a personalized gross receipts coupon book. To register with the Division of Revenue and obtain a business license, complete a Combined Registration Application, available on the Internet, and mail to the Division of Revenue with the appropriate fee.

A business license application must be initiated prior to or in conjunction with the submission of a bid on competitively bid contracts exceeding \$80,000; or in the case of a subcontractor, prior to the submission of a bid by the general contractor. The license application procedure may be initiated by visiting or calling the Division of Revenue. Additionally, contractors submitting bids to agencies of this State other than the counties of this State or any public school district must supply with their bid their taxpayer identification number or the Delaware Division of Revenue business license number.

Tax Rates and Exclusions

	Tax Rate	Monthly Exclusion
Contractor	.00499	\$80,000
Sample Calculation	Total Gross Receipts	\$173,000
	Less Subcontractors	<u>5,000</u>
	Net Gross Receipts	\$168,000
	Less Exclusion	<u>80,000</u>
	Taxable Gross Receipts	\$ 88,000
	Tax Rate	X .00499
	Tax Due	<u>\$ 439</u>

(Note: Delaware requires that tax due be rounded-off to the nearest dollar amount.)

Due Dates of Returns

New licensees will file on a quarterly basis through their first calendar year. The Division of Revenue will then perform a 'lookback' procedure and determine if the filing frequency should be changed.

Monthly Filers	20 th day of the following month
Quarterly Filers	last day of the first month after the end of the calendar quarter.

Annual Filing Permitted

If your taxable gross receipts (total gross receipts less the exclusion) for all months or calendar quarters of the tax year are zero, you may file the monthly or quarterly returns for the entire year at the end of the calendar year. Please complete all monthly or quarterly returns and mail them by January 20th of the following year. But, if your taxable gross receipts are greater than zero during any month or calendar quarter or if you made payment(s) to subcontractors, you are required to file that return by the due date printed on the return.

Contracts Awarded to Non-Resident Contractors

Every architectural or professional engineering firm, contractor or construction manager engaging in the practice of such profession shall furnish the Department of Finance within 10 days after entering into any contract with a contractor or subcontractor not a resident of this State, a statement of the total value of such contract or contracts together with the names and addresses of the contracting parties by filing Form 5060, 'Statement of Contracts Awarded by General Contractors and Subcontractors'. Form 5060 is also available by contacting any Division of Revenue office.

Failure to comply with the notification of awards or bonding provisions of Section 375 of Title 30 of the Delaware Code is subject to a civil penalty up to \$10,000 for each occurrence.

Bonding Requirements for Non-Resident Contractors

All non-resident contractors are reminded that they must supply a surety or cash bond to the Division of Revenue equal to six percent (6%) of the total of all contracts exceeding \$20,000 for construction within this state. For Division of Revenue purposes, cash bonds and bank letters of credit issued by financial institutions will be accepted on all contracts.

Real Estate Developer

House Bill No. 453 defined a Real Estate Developer as well as defining their taxable gross receipts. This Act is effective for gross receipts received after June 30, 1993. A real estate developer is one who acquires land, improves the land and/or builds structures, and sells the land with the structure to customers. Their gross receipts includes all sums received from the sale of real property with structures (commercial and/or residential) built thereon, reduced by certain costs as defined. Developers may ELECT, at their option, in lieu of deducting the actual cost of land and improvements for a particular tax year, to reduce sums received from the sale of real property by the assumed cost of land, improvements to the land, and miscellaneous expenses equal to 30% of the gross proceeds from the sale. The election is in such form as the Director of Revenue shall prescribe. The election is irrevocable unless waived by the Director. Please see Technical Information Memorandum 93-5 for additional information concerning Real Estate Developers.

Common Ownership/Direction

Businesses which operate their separate branches by the use of separate operating corporations are only entitled to one monthly or quarterly exclusion for the enterprise to the extent that the corporations have common ownership or common direction and control.

Emergency Planning & Community Right-to-Know Act (EPCRA)

If your business uses, stores or transports chemical substances, you may be covered under Federal and State EPCRA requirements. From motor oils and heating fuels to cleaning solvents and specialty chemicals, many different substances are covered. The requirements range from the submission of annual reports identifying the amounts and locations of these substances at your site(s) to the reporting of releases and spills.

The information submitted serves several important purposes. During emergencies, the 911 Fire Dispatch Centers can access and provide the chemical information to local fire fighters and other emergency personnel responding to the site. Local Emergency Planning Committees use the information to develop plans to prepare for and respond to emergencies in their districts. The information is also available to the public to promote community involvement in preparing for emergencies and managing chemical risks.

For additional information and a free business compliance guide, contact the Delaware EPCRA Reporting Program at (302) 739-4791.

Regulatory and Local Requirements

The Business License Issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license. Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information at (302) 739-4522.

General

If you have any questions, please contact one of the following offices

<i>Wilmington</i>	<i>Dover</i>	<i>Georgetown</i>
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801 (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901 (302) 744-1085	Division of Revenue Suite 2 422 North DuPont Highway Georgetown DE 19947 (302) 856-5358

or Theresa Graciano at Theresa.graciano@state.de.us or 302-577-8264.

DELAWARE DIVISION OF REVENUE
CONTRACTORS GROSS RECEIPTS TAX RETURN - FORM LQ3 9501

LCQ

ACCOUNT NUMBER	TAX PERIOD ENDING	DUE ON OR BEFORE	BUSINESS CODE GROUP DESCRIPTION 335 CONTR NRES
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BUSINESS NAME AND ADDRESS

1. TOTAL DELAWARE GROSS RECEIPTS	\$	00
2. MINUS SUBCONTRACTORS (Attach Form 1280)	\$	00
3. NET GROSS RECEIPTS	\$	00
4. LESS EXCLUSION	\$	240,000 00
5. TAXABLE AMOUNT	\$	00
6. BALANCE DUE Line 5 x 0.00499 =	\$	00

AUTHORIZED SIGNATURE I declare under penalties of perjury, that this is a true, correct and complete return.

DATE

TELEPHONE NUMBER

Mail This Form With Remittance Payable To:
 Delaware Division of Revenue
 P.O. Box 2340, Wilmington, DE 19899-2340
 For questions, call (302) 577-8780

If desired, provide an e-mail address where we may contact you regarding this return.

E-MAIL ADDRESS

CUT ALONG THIS LINE AND SEND THE ABOVE PORTION WITH ANY PAYMENT DUE

GROSS RECEIPTS TAX RETURN - QUARTERLY

Complete the return above, sign, date and file by the due date. You may file all monthly or quarterly returns at the end of the year if no tax is due on any of the returns.

To Update Your Contact/Business Information on File with Revenue:

[Remit a License Request for Change form](#)

To Change Tax Information You've Already Reported:

[Remit an Amended return](#)

SPECIFIC LINE INSTRUCTIONS

PLEASE NOTE: THE DIVISION OF REVENUE REQUIRES ROUNDING OF ALL AMOUNTS ON ALL GROSS RECEIPTS RETURNS.

- Line 1. - Enter on Line 1 the amount of your gross receipts from any labor or labor and materials supplied in connection with the improvement, alteration or development of real property located in Delaware. Also include in this amount, any receipts from incidental non-construction sales. Construction Transportation Contractors should report the receipts received from transporting construction materials or supplies.
- Line 2. - Enter the amount paid to sub-contractors during the tax period. Construction Transportation Contractors may exclude amounts paid to Draypersons. Be sure to attach a copy of the enclosed Form 1280 to verify such payments.
- Line 3. - Subtract Line 2 from Line 1 and enter the result on Line 3. If this is a negative amount or zero, enter zero on Line 3. (No tax is due. Sign, date and file this return.) **NOTE:** If your TAXABLE GROSS RECEIPTS is zero, you may delay filing your returns until you have tax due within the calendar year. However, you must file all returns for the calendar year by January 31st of the next year.
- Line 4. - The maximum allowable exclusion for the quarter is \$240,000.
- Line 5. - Subtract Line 4 from Line 3 and enter the result on Line 5. If this is a negative amount or zero, enter zero on Line 5. (No tax is due. Sign, date and file this return.)
- Line 6. - Multiply Line 5 by the gross receipts tax rate of 0.00499. Enter the result on Line 6. This amount of tax is due and payable with the filing of this return. Please sign, date and file this return on or before the due date.

If you have not already renewed this year's business license, do it now to avoid a \$200 penalty.
 Go to www.delaware.gov to renew your business license online!

SAMPLE COMPLETED RETURN

1. TOTAL DELAWARE GROSS RECEIPTS	\$	300,000.00
2. MINUS SUBCONTRACTORS (Attach Form 1280)	\$	25,000.00
3. NET GROSS RECEIPTS	\$	275,000.00
4. LESS EXCLUSION	\$	240,000.00
5. TAXABLE AMOUNT	\$	35,000.00
6. BALANCE DUE (Line 5 x 0.00499)	\$	175.00

Quarterly Gross Receipts Tax Returns are due on or before the last day of the month following the end of the quarter as listed.

QUARTER END	DUE DATE	QUARTER END	DUE DATE
03/31/2006	05/01/2006	09/30/2006	10/31/2006
06/30/2006	07/31/2006	12/31/2006	01/31/2007

For questions or to speak with a customer service representative, please call Revenue's Gross Receipts Department at (302) 577-8780.

Forms ♦ Renew Business License ♦ www.state.de.us/revenue ♦ File Online ♦ Tax Tips

STATE OF DELAWARE
Department of Finance
Division of Revenue
820 N. French Street
P.O. Box 2340
Wilmington, Delaware 19899-2340

STATEMENT OF PAYMENTS
MADE BY GENERAL CONTRACTORS
TO SUBCONTRACTORS

FORM 1280

*THIS FORM MUST BE ATTACHED TO CONTRACTOR'S MONTHLY GROSS RECEIPT TAX COUPON
TO SUBSTANTIATE PAYMENTS TO SUBCONTRACTORS*

1. Enter Federal Employee Identification Number

OR

Social Security Number

1- -

2- - -

2. Name

3. Address

4. General Contractors Total Monthly Gross Receipts:

Month _____

\$ _____

5. Less Payments to Subcontractors:

Name &. Address

Employer ID No./
Business Code*

Amount of Payment/
DE Business License No.

► _____

► _____

► _____

► _____

► _____

(See reverse side for additional space.)

6. Total Payments to Subcontractors

\$ _____

7. Total Taxable Gross Receipts for the Month:

\$ _____

* Business Codes 331, 332, 335 or 336. See Reverse side of this form for listing of activities not deductible as amounts paid to subcontractors.

SIGNATURE

TITLE

DATE

[illegible]

LINE-BY-LINE INSTRUCTIONS

FORM 1280

1. Enter the account number, either federal employer identification or social security number, from the gross receipt coupon book.
2. Enter the name of the contractor.
3. Enter the address of the contractor.
4. Enter the month and year for which the gross receipts tax is being reported and the amount of the gross receipts. (Enter this amount on Line 1 of the gross receipt coupon.)
5. List the names, addresses, employer identification numbers, business codes (331, 332, 335 or 336 only), amount of payments made to subcontractors and subcontractor's current Delaware business license number. **Payments to subcontractors without a current business license will be denied.**
6. Enter the total amount of payments made to subcontractors. (Enter this amount on Line 2 of the gross receipts coupon.)
7. Subtract Line 6 from Line 4 and enter here. (Enter this amount on Line 3 of the gross receipt coupon.)

The following is a listing of activities/expenses which are NOT DEDUCTIBLE as amounts paid to subcontractors:

Accounting Expenses	Horticulture
Advertising	Inspections
Architects	Interior Designers/Decorators
Attorneys	Material supplied without labor
Cleaning	Operating Expenses
Construction Management	Realtors
Delivery or transportation charges	Sanitation
Employment Agencies or temporary employees	Security
Engineers	Surveyors
Environmental Studies	Taxes or other fees paid to any state, county, city or municipality
Equipment Rental	Trailer Rentals
Exterminators	Trash Removal
Hauling	Utility Expenses

STATE OF DELAWARE
Department of Finance
Division of Revenue
Attn: David M. Smith, MS 25
P.O. Box 8911
Wilmington, Delaware 19899-8911

STATEMENT OF CONTRACTS
AWARDED BY GENERAL CONTRACTORS
AND SUBCONTRACTORS

FORM 5060

REV CODE 0028-16

THIS FORM MUST BE COMPLETED BY ALL CONTRACTORS WHO USE NON-RESIDENT SUBCONTRACTORS

1. Enter Federal Employee Identification Number

OR

Social Security Number

1- -

2- - -

2. Name (Submitted by: General Contractor Architect Engineer {Circle One})

3. Business Name if Different from Above

4. Business Location Address

5. Location of Project

City State Zip Code

City State Zip Code

6. Contract have been awarded to the following nonresident contractors and nonresident subcontractors:

Name & Address	Employer ID No./ Date of Award	Amount of Contract/ DE Business License No.
▶ <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>
▶ <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>
▶ <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>
▶ <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>
▶ <input type="text"/> <input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>	<input type="text"/> <input type="text"/>

(See back of return for additional space.)

Signature

Title

Telephone No.

Date

Contracts have been awarded to the following nonresident contractors and nonresident subcontractors:

Name & Address	Employer ID No./ Date of Award	Amount of Contract/ DE Business License No.
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	
▶ _____ _____ _____	_____ _____	

LINE-BY-LINE INSTRUCTIONS

FORM 5060

1. Enter the account number, either federal employer identification or social security number, from the gross receipt coupon book.
2. Enter the name of the contractor.
3. Enter the address of the contractor.
4. Enter the month and year for which the gross receipts tax is being reported and the amount of the gross receipts. (Enter this amount on Line 1 of the gross receipt coupon.)
5. List the names, addresses, employer identification numbers, business codes (331, 332, 335 or 336 only), amount of payments made to subcontractors and subcontractor's current Delaware business license number. **Payments to subcontractors without a current business license will be denied.**
6. Enter the total amount of payments made to subcontractors. (Enter this amount on Line 2 of the gross receipts coupon.)
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Construction Management	Realtors
Delivery or transportation charges	Sanitation
Employment Agencies or temporary employees	Security
Engineers	Surveyors
Environmental Studies	Taxes or other fees paid to any state, county, city or municipality
Equipment Rental	Trailer Rentals
Exterminators	Trash Removal
Hauling	Utility Expenses